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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,968	03/31/2005	Christoph Weis	SMB-PT131 (PC 03 298 B US	6272
3624 7590 10/23/2009 VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			EXAMINER CERNOCH, STEVEN MICHAEL	
			ART UNIT 3752	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,968	Applicant(s) WEIS ET AL.	
	Examiner STEVEN CERNOCH	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15, 16 and 18-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15, 16 and 18-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/17/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 15, 16 and 18-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aghnides et al. (US Pat No 4,534,514) in view of Griffin et al. (US Pub No 2002/0084353).

Regarding claims 15 and 41, Aghnides et al. teaches a sanitary outflow armature (Fig. 2, 208) comprising a liquid guide that opens into a fitting outlet (200), in an area of which a plumbing functional unit in the form of an insertion cartridge (214) is provided, wherein an inner diameter of the liquid guide is adapted to the insertion cartridge at least in an opening area of the fitting outlet, and the insertion cartridge is inserted into the fitting outlet from an opening side and is held in a single fixed position (column 5, lines 39-40) and at least a predominant portion of a longitudinal extension of the

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insertion cartridge is received within the fitting outlet (column 5, line 45), which comprises a contoured end face tool engagement portion (col 10, lines 44-48).

Aghnides et al. does not teach a hollow, cylindrical sleeve-shaped intermediate holder.

However, Griffin et al. does teach a hollow, cylindrical sleeve-shaped intermediate holder (Fig. 2, 34).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have the motivation to modify the aerator of Aghnides et al. with the sleeve holder of Griffin et al. to enclose the aerator elements (paragraph 0029)

With regard to claim 16, Aghnides et al. teaches wherein the insertion cartridge (Fig. 2, 214) is situated with the longitudinal extension thereof completely in the fitting outlet so that only an outflow end surface is directly visible (column 5, line 45).

Regarding claim 18, Aghnides et al. teaches wherein the intermediate holder that can be placed into the fitting outlet from the opening side is held removably or non-removably in the fitting outlet (column 5, lines 39-40).

Aghnides et al. does not teach a hollow, cylindrical sleeve-shaped intermediate holder.

However, Griffin et al. does teach a hollow, cylindrical sleeve-shaped intermediate holder (Fig. 2, 34).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have the motivation to modify the aerator of Aghnides et al. with the sleeve holder of Griffin et al. to enclose the aerator elements (paragraph 0029)

With regard to claim 19, Aghnides et al. teaches wherein the insertion cartridge or intermediate holder can be inserted into the fitting outlet up to an insertion stop (Fig. 2, 216).

In regards to claim 20, Aghnides et al. teaches wherein the intermediate holder is held in the fitting outlet by at least one of a glued, clamped, locking, and screw connection, and/or by at least one of pressing, clutching, and wedging (column 5, lines 39-40).

Regarding claim 21, Aghnides et al. teaches wherein the intermediate holder is sealed peripherally against an inner peripheral wall of the fitting outlet (Fig. 2, 218).

With regard to claim 22, Aghnides et al. teaches wherein the insertion cartridge (Fig. 2, 214) is held in the intermediate holder by a clamped, locking, or screw connection (250).

Aghnides et al. does not teach a hollow, cylindrical sleeve-shaped intermediate holder.

However, Griffin et al. does teach a hollow, cylindrical sleeve-shaped intermediate holder (Fig. 2, 34).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have the motivation to modify the aerator of Aghnides et al. with the sleeve holder of Griffin et al. to enclose the aerator elements (paragraph 0029)

In regards to claim 23, Aghnides et al. teaches wherein the insertion cartridge (Fig. 2, 214) is sealed against (248) the intermediate holder which is in turn sealed against an inner peripheral wall of the fitting outlet (218).

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Aghnides et al. does not teach a hollow, cylindrical sleeve-shaped intermediate holder.

However, Griffin et al. does teach a hollow, cylindrical sleeve-shaped intermediate holder (Fig. 2, 34).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have the motivation to modify the aerator of Aghnides et al. with the sleeve holder of Griffin et al. to enclose the aerator elements (paragraph 0029)

Regarding claim 24, Aghnides et al. teaches wherein at least one annular seal (248) is provided for a seal between the insertion cartridge (214) and the intermediate holder on the one hand and the sanitary outflow armature on the other hand (218).

Aghnides et al. does not teach a hollow, cylindrical sleeve-shaped intermediate holder.

However, Griffin et al. does teach a hollow, cylindrical sleeve-shaped intermediate holder (Fig. 2, 34).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have the motivation to modify the aerator of Aghnides et al. with the sleeve holder of Griffin et al. to enclose the aerator elements (paragraph 0029)

With regard to claim 25, Aghnides et al. teaches wherein the intermediate holder has an outer thread that can be screwed into an inner thread in the fitting outlet (column 5, lines 39-40), and the outer thread and the inner thread are dimensioned and situated such that when the intermediate holder is screwed into the fitting outlet, the threads initially engage one another in a relative position of the Sanitary outflow armature on the

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one hand and the intermediate holder on the other hand in which the annular seal (218) provided on an outer periphery of the intermediate holder does not yet make frictional contact with the Sanitary outflow armature.

Aghnides et al. does not teach a hollow, cylindrical sleeve-shaped intermediate holder.

However, Griffin et al. does teach a hollow, cylindrical sleeve-shaped intermediate holder (Fig. 2, 34).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have the motivation to modify the aerator of Aghnides et al. with the sleeve holder of Griffin et al. to enclose the aerator elements (paragraph 0029)

In regards to claim 26, Aghnides et al. teaches wherein the insertion cartridge comprises a multi-part cartridge housing (Fig. 2, 208), and a clamping, locking, and/or screw connection is provided on a housing part of the cartridge housing (column 5, lines 39-40), situated at a flow outlet side, for the fastening of the cartridge housing in the fitting outlet.

Regarding claim 27, Aghnides et al. teaches wherein the cartridge housing of the intermediate holder has a contoured outer periphery and/or a contoured outflow end surface, constructed as a tool engagement surface for an insertion tool (column 10, lines 44-58).

With regard to claim 28, Aghnides et al. teaches wherein the outflow end surface of the cartridge housing of the intermediate holder has a contouring made up of projections and recesses (Fig. 2, 242, 250), such that the recesses of the insertion

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cartridge held in the intermediate holder act as a tool engagement surface for the projections of another cartridge housing that can be used as an insertion tool, and/or of another intermediate holder (column 10, lines 44-58).

In regards to claim 29, Aghnides et al. teaches wherein the insertion cartridge (Fig. 2, 214) and the intermediate holder are connected in one piece with at least one seal (248) that forms a seal between the insertion cartridge and the intermediate holder on the one hand and the Sanitary outflow armature on the other hand (Fig. 7, 524).

Aghnides et al. does not teach a hollow, cylindrical sleeve-shaped intermediate holder.

However, Griffin et al. does teach a hollow, cylindrical sleeve-shaped intermediate holder (Fig. 2, 34).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have the motivation to modify the aerator of Aghnides et al. with the sleeve holder of Griffin et al. to enclose the aerator elements (paragraph 0029)

Regarding claim 30, Aghnides et al. teaches wherein the seal (Fig. 2, 248), and the component of the insertion cartridge (214) and the intermediate holder connected in one piece with the seal, are made of the same material, at which point, the art of record does not indicate to the contrary therefore examiner concludes they are the same material.

Aghnides et al. does not teach a hollow, cylindrical sleeve-shaped intermediate holder.

However, Griffin et al. does teach a hollow, cylindrical sleeve-shaped intermediate holder (Fig. 2, 34).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have the motivation to modify the aerator of Aghnides et al. with the sleeve holder of Griffin et al. to enclose the aerator elements (paragraph 0029)

With regard to claim 31, Aghnides et al. teaches wherein at least one of the outflow-side final edge area of the insertion cartridge and of the intermediate holder is fashioned as a sealing profile (Fig. 5, 522 & 546).

Aghnides et al. does not teach a hollow, cylindrical sleeve-shaped intermediate holder.

However, Griffin et al. does teach a hollow, cylindrical sleeve-shaped intermediate holder (Fig. 2, 34).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have the motivation to modify the aerator of Aghnides et al. with the sleeve holder of Griffin et al. to enclose the aerator elements (paragraph 0029)

In regards to claim 32, Aghnides et al. teaches wherein the sealing profile has at least one surface seal (Fig. 5, 510) and at least one lip seal (Fig. 5, 524).

Regarding claim 33, Aghnides et al. teaches wherein the insertion cartridge and/or the intermediate holder has at a flow inlet side an insertion stop (Fig. 2, 216) that in its position of use limits a deformation of the sealing profile (218).

With regard to claim 34, Aghnides et al. teaches wherein the sealing profile has at least one seal having a sealing profile base that is formed as an insertion stop (Fig. 2, 216).

In regards to claim 35, Aghnides et al. teaches wherein the insertion stop (Fig. 2, 216) is situated adjacent to the sealing profile in a radial direction (218).

Regarding claim 36, Aghnides et al. teaches wherein at least one of the sealing profile (Fig. 2, 218) and the insertion stop (216) work together with a counterstop (220) on an inner periphery of the Sanitary outflow armature that limits the inner diameter of the liquid guide.

With regard to claim 37, Aghnides et al. teaches wherein the sealing profile has at least one annular peripheral sealing lip (Fig. 8, 632).

In regards to claim 38, Aghnides et al. teaches wherein the sealing profile has at least two annular peripheral sealing lips that become effective one after the other with increasing insertion pressure that acts on the insertion cartridge and/or on the intermediate holder (Fig. 11, 706 & 707).

Regarding claim 39, Aghnides et al. teaches wherein the sealing lips have different heights (Fig. 11, 706 & 707).

With regard to claim 40, Aghnides et al. teaches wherein the sealing lips have stepped heights (Fig. 11, 706 & 707).

Response to Arguments

Applicant's arguments with respect to claims 15-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **STEVEN CERNOCH** whose telephone number is (571)270-3540. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. C./

Examiner, Art Unit 3752

/Dinh Q Nguyen/

Primary Examiner, Art Unit 3752